

AMENDED IN SENATE JUNE 15, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 2004

Introduced by Assembly Member Chesbro

February 20, 2014

An act to amend Section ~~23055~~ of 23357 of, and to add Section 23399.45 to, the Business and Professions Code, relating to alcoholic beverages.

LEGISLATIVE COUNSEL'S DIGEST

AB 2004, as amended, Chesbro. ~~Department of Alcoholic Beverages Control: annual report. Alcoholic beverage sales: beer manufacturers.~~

(1) Existing law, the Alcoholic Beverage Control Act, authorizes a licensed beer manufacturer, at the licensed premises of production, to sell to consumers for consumption off the premises beer that is produced and bottled by, or produced and packaged for, that manufacturer and, among other things, to sell beer and wine, regardless of source, to consumers for consumption at a bona fide public eating place on the manufacturer's licensed premises or contiguous to it, as specified. The act provides that a violation of its provisions is a misdemeanor unless otherwise specified. Existing law provides that moneys collected as fees pursuant to the act are to be deposited in the Alcoholic Beverage Control Fund. These moneys are generally allocated to the Department of Alcoholic Beverage Control upon appropriation by the Legislature.

This bill would authorize a beer manufacturer to have upon the premises, as specified, all beers, wines, and brandies, regardless of source, for sale or service to guests during private events or private functions not open to the general public. The bill would require the beer manufacturer to purchase alcoholic beverages sold at the premises

that are not produced and bottled by, or produced and packaged for, the beer manufacturer from a licensed wholesaler, as specified. Because a violation of a provision of a license is a misdemeanor and this bill would increase activities permitted pursuant to the license, subject to specified requirements, this bill would expand the definition of a crime and would impose a state-mandated local program.

(2) Existing law authorizes a licensed winegrower to apply to the Department of Alcoholic Beverage Control for a certified farmers' market sales permit, which allows the licensee, a member of the licensee's family, or an employee of the licensee to sell wine produced and bottled by the winegrower at certified farmers' market locations, under specified conditions.

This bill would authorize a licensed beer manufacturer to apply to the Department of Alcoholic Beverage Control for a certified farmers' market beer sales permit, which would allow the licensee, a member of the licensee's family, or an employee of the licensee to sell packaged beer that has been manufactured by the beer manufacturer at certified farmers' market locations, under specified conditions. Among other things, the bill would prohibit a licensee from selling more than 5,000 gallons of beer annually pursuant to all certified farmers' market beer sales permits held by the beer manufacturer and would require the licensee to pay a fee of \$50 for the permit. Because the violation of a provision of a license is punishable as a misdemeanor and the bill would create a new category of license, the bill would expand the definition of a crime, thereby imposing a state-mandated local program.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~The Alcoholic Beverage Control Act is administered by the Department of Alcoholic Beverage Control. Existing law requires the department to make an annual report to the Legislature on the department's activities, including information for the fiscal calendar year on the number and type of enforcement activities conducted by the department and by local law enforcement agencies in conjunction with the department.~~

~~This bill would require the department to additionally include in the report the number of active field agents employed by the department~~

~~and the number and type of enforcement activities conducted by the department and by local law enforcement agencies in conjunction with the department by license type and by region or county.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~no~~yes.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 23357 of the Business and Professions*
2 *Code is amended to read:*

3 23357. (a) A licensed beer manufacturer may, at the licensed
4 premises of production, sell to consumers for consumption off the
5 premises beer that is produced and bottled by, or produced and
6 packaged for, that manufacturer. Licensed beer manufacturers may
7 also exercise any of the following privileges:

8 (1) Sell ~~such~~ *that* beer to any person holding a license
9 authorizing the sale of beer.

10 (2) Sell ~~such~~ *that* beer to consumers for consumption on the
11 manufacturer's licensed premises or on premises owned by the
12 manufacturer ~~which~~ *that* are contiguous to the licensed premises
13 and which are operated by and for the manufacturer.

14 (3) Sell beer and wine, regardless of source, to consumers for
15 consumption at a bona fide public eating place on the
16 manufacturer's licensed premises or at a bona fide public eating
17 place on premises owned by the manufacturer which are contiguous
18 to the licensed premises and which are operated by and for the
19 manufacturer.

20 (b) Notwithstanding any other provision of this division, licensed
21 beer manufacturers and holders of out-of-state beer manufacturer's
22 certificates may be issued and may hold retail package off-sale
23 beer and wine licenses. Alcoholic beverage products sold at or
24 from the off-sale premises ~~which~~ *that* are not produced and bottled
25 by, or produced and packaged for, the beer manufacturer shall be
26 purchased by the beer manufacturer only from a licensed
27 wholesaler.

28 (c) Notwithstanding any other provision of this division, a
29 licensed beer manufacturer that produces more than 60,000 barrels
30 of beer a year may manufacture cider or perry at the licensed
31 premises of production and may sell cider or perry to any licensee
32 authorized to sell wine. For purposes of this subdivision, "cider"

1 and “perry” have the meanings provided in Section 4.21(e)(5) of
2 Title 27 of the Code of Federal Regulations. This subdivision does
3 not alter or amend the classification of cider or perry as wine for
4 any purpose other than that provided by this section.

5 *(d) A beer manufacturer may also have upon the licensed*
6 *premises, or on premises owned by the manufacturer that are*
7 *contiguous to the licensed premises and are operated by and for*
8 *the manufacturer all beers, wines, and brandies, regardless of*
9 *source, for sale or service only to guests during private events or*
10 *private functions not open to the general public. Alcoholic beverage*
11 *products sold at the premises that are not produced and bottled*
12 *by, or produced and packaged for, the beer manufacturer shall be*
13 *purchased by the beer manufacturer only from a licensed*
14 *wholesaler. All alcoholic beverages sold or served shall be*
15 *produced by a licensee authorized to manufacture the product.*

16 SEC. 2. Section 23399.45 is added to the Business and
17 Professions Code, to read:

18 23399.45. (a) For the purposes of this section:

19 (1) “Certified farmers’ market” means a location operated in
20 accordance with Chapter 10.5 (commencing with Section 47000)
21 of Division 17 of the Food and Agricultural Code.

22 (2) “Community event” means an event as defined by Section
23 113755 of the Health and Safety Code.

24 (b) A licensed beer manufacturer may apply to the department
25 for a certified farmers’ market beer sales permit. Subject to the
26 requirements of Chapter 10.5 (commencing with Section 47000)
27 of Division 17 of the Food and Agricultural Code, and to the
28 discretion and managerial control of a certified farmers’ market
29 or community event operator, a certified farmers’ market beer
30 sales permit shall authorize the licensee, a member of the licensee’s
31 family, or an employee of the licensee to sell packaged beer that
32 has been manufactured by a beer manufacturer applying for the
33 permit at a certified farmers’ market, including any permitted
34 community event area adjacent to, and operated in conjunction
35 with, a certified farmers’ market, located within the county or an
36 adjacent county of the physical location of the licensed beer
37 manufacturer.

38 (c) Sales under the certified farmers’ market beer sales permit
39 shall only occur at a certified farmers’ market or within a permitted
40 community event area adjacent to, and operated in conjunction

1 with, the certified farmers' market that is located within the same
2 county or adjacent county of the location of the licensed beer
3 manufacturer's manufacturing facility. The permit may be issued
4 for up to 12 months but shall not be valid for more than one day
5 a week at any single specified certified farmers' market or
6 community event location. A beer manufacturer may hold more
7 than one permit. The department shall notify the city, county, or
8 city and county and the applicable law enforcement agency where
9 the certified farmers' market or permitted community event is to
10 be held of the issuance of the permit.

11 (d) The licensed beer manufacturer eligible for the certified
12 farmers' market beer sales permit shall not sell more than 5,000
13 gallons of beer annually pursuant to all certified farmers' market
14 beer sales permits held by any single beer manufacturer. The
15 licensed beer manufacturer shall maintain records of annual beer
16 sales made pursuant to all certified farmers' market beer sales
17 permits issued.

18 (e) The fee for any permit issued pursuant to this section shall
19 be fifty dollars (\$50), subject to adjustment pursuant to subdivisions
20 (b) and (c) of Section 23320.

21 (f) All money collected as fees pursuant to this section shall be
22 deposited in the Alcohol Beverage Control Fund as provided in
23 Section 25761.

24 SEC. 3. No reimbursement is required by this act pursuant to
25 Section 6 of Article XIII B of the California Constitution because
26 the only costs that may be incurred by a local agency or school
27 district will be incurred because this act creates a new crime or
28 infraction, eliminates a crime or infraction, or changes the penalty
29 for a crime or infraction, within the meaning of Section 17556 of
30 the Government Code, or changes the definition of a crime within
31 the meaning of Section 6 of Article XIII B of the California
32 Constitution.

33 ~~SECTION 1. Section 23055 of the Business and Professions~~
34 ~~Code is amended to read:~~

35 ~~23055. On or before March 1 of each year, the director shall~~
36 ~~prepare and submit to the Legislature an annual report on the~~
37 ~~department's activities and post the report on the department's~~
38 ~~Internet Web site. The report shall include, but not be limited to,~~
39 ~~the following information for the previous fiscal year:~~

- 1 ~~(a) The amount of funds allocated and spent by the department~~
2 ~~for licensing, enforcement, and administration.~~
3 ~~(b) The number of licenses issued, renewed, denied, suspended,~~
4 ~~and revoked, by license category.~~
5 ~~(c) The average time for processing license applications, by~~
6 ~~license category.~~
7 ~~(d) The number of active field agents employed by the~~
8 ~~department and the number and type of enforcement activities~~
9 ~~conducted by the department and by local law enforcement~~
10 ~~agencies in conjunction with the department by license type and~~
11 ~~by region or county.~~
12 ~~(e) The number, type, and amount of penalties, fines, and other~~
13 ~~disciplinary actions taken by the department.~~